



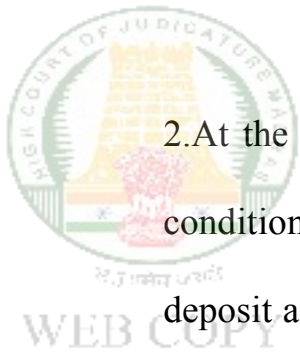
C.M.P.Nos.6489 and 6781 of 2023
in C.R.P.Nos.1548 and 1549 of 2019

N.SESHASAYEE, J.

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The defendant in O.S.No.281 of 2011, which was laid for recovery of property on termination of tenancy by the plaintiff is the revision petitioner herein. The material facts of this case are as follows:

- On 22.03.2017, the suit was decreed ex parte. Promptly, the plaintiff laid E.P.No.19 of 2017, for delivery of property. At this juncture, the defendant would take out I.A.No.803 of 2017, for setting aside the ex parte decree under Order IX Rule 13 C.P.C and also another application in E.A.No.36 of 2018 before the Execution Court under Section 47 C.P.C. Both these applications and E.P.No.19 of 2017 were posted for hearing on 20.03.2019. On that date, the defendant was required to tender his evidence in support of his application in I.A.No.803 of 2017.
- The defendant did not appear on that day. As a result, both the I.A.No.803 of 2017 and the application filed under Section 47 C.P.C came to be dismissed, and the E.P for delivery of possession was ordered. Aggrieved by the said order of dismissal, the defendant also took out E.A.Nos.2, 3, 4 and 6 of 2019, for restoration of that aforesaid two applications that he had filed and the same is pending before the Court below. Hence, the C.R.Ps.



2. At the time when the C.R.Ps were listed for admission, this Court passed a conditional order of stay of delivery of possession directing the defendant to deposit a sum of Rs.88,200/- which represents the arrears of rent at the relevant time. This amount is said to have been deposited by the defendant. Subsequently, the matter was listed before this Court on 09.02.2022, and there was no representation for the revision petitioner. Hence, this Court directed listing of the case under the caption 'for dismissal'. On that day, again there was no representation for the revision petitioner. Hence, the C.R.Ps came to be dismissed for default. Now, the revision petitioner has taken out present petitions for restoration of both the C.R.Ps.

3. Learned counsel for the revision petitioner highlighted the grounds he has raised which in essence indicates that the revision petitioner was badly sick.

4. Learned counsel for the respondent / Decree Holder submitted that the affidavit filed in support of these petitions for restoration of the revisions were filed by the very counsel who is now representing the revision petitioner. Secondly, he then proceeded to submit that there is a pattern to the way the defendant prosecutes the proceedings between 2017 and 2019, he essentially plays hide and seek with the judicial process that he appears to file petitions, but would not prosecute it. Thirdly, today the defendant is in arrears of rent for



5. Heard both sides.

6. Principally, this Court is disappointed with the fact that the counsel has chosen to file an affidavit for highlighting the alleged illness of his party. A counsel is not expected to do what his client is required to do in law. Secondly, as rightly contended by the counsel for the respondent, there is a pattern to the conduct of the Judgement Debtor / the Revision Petitioner in defending action or in prosecuting his own application. One or two default may always happen for human affairs being what they are, it may not work the way science works, but if it assumes a pattern, then it is very evident that the defendant is only keen to prolong the agony of the plaintiff and delay the inevitable.

7. In conclusion, this Court does not consider that the revision petitioner deserves any procedural courtesies for a hearing of this revisions since even on merit his conduct will speak only against him.

8. These Civil Miscellaneous Petitions stands dismissed accordingly.

15.06.2023

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